IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

Bail Appl..No. 5705 of 2007()

CRIME NO. 507/07 OF CHENGANNUR POLICE STATION

PETITIONERS/ACCUSED NOS.1 & 2

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1. SRI. P.V.KUTTAN ACHARI, AGED 65 YEARS,
   PUTHOORETHU VEEDU, PULIYOOR MURI,
   PULIYOOR VILLAGE, CHENGANNUR TALUK.

2. SMT.CHELLAMMA, AGED 63 YEARS,
   W/O KUTTAN ACHARI, PUTHOORETHU VEEDU,
   PULIYOOR MURI, PULIYOOR VILLAGE,
   CHENGANNUR TALUK.

BY ADV. SRI.S.HARIKRISHNAN

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
   CHENGANNUR.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5705 of 2007

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Dated this the 8th day of October, 2007

O R D E R

Application for anticipatory bail. The petitioners are father-in-law and mother-in-law respectively of the defacto complainant. The defacto complainant has filed a complaint alleging commission of offence punishable under Section 498A r/w. 34 I.P.C. and Sections 31 and 32 of the Protection of Women from Domestic Violence Act, 2005.

2. The crux of the allegations is that the petitioners - father-in-law and mother-in-law respectively of the defacto complainant - have been guilty of matrimonial cruelty of the culpable variety against her. There is a further contention that an interim order passed by the learned Magistrate under the Protection of Women from Domestic Violence Act has been violated. The learned counsel for the petitioners submits that the allegations are totally false. There is no interim protection order passed. What is passed is only an interim residence order. There can be no prosecution for breach of an interim residence order. The language of Section 31 makes it clear

that prosecution under Section 31 can be only against breach of protection order or interim protection order. The allegation of matrimonial cruelty is totally unjustified, submits the counsel.

3. Notice was given. The learned Prosecutor submits that the State has no objection against the grant of anticipatory bail to the petitioners - a couple, aged about 65 and 63 years respectively - subject to appropriate terms and conditions.

4. Having considered all the relevant inputs, I am satisfied that anticipatory bail can be granted to the petitioners herein.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 15.10.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer on 16.10.2007 between 10 a.m. and 1 p.m.

and thereafter as and when directed by the Investigating Officer in writing to do so.

(d) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 15.10.07 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(b) If the petitioners were arrested prior to their surrender on 15.10.2007 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 1510.2007.

(R. BASANT)
Judge

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